



January 15, 2008

SENATE BILL No. 198

DIGEST OF SB 198 (Updated January 10, 2008 4:56 pm - DI 110)

Citations Affected: IC 4-6; IC 9-13; IC 9-22; noncode.

Synopsis: Towing and storage of abandoned vehicles. Provides that "abandoned vehicle" (vehicle) includes a motor vehicle that is: (1) ordered to be towed or transported from a highway, street, or adjacent area of a highway or street by a law enforcement officer or from private property by the owner, lessee, or manager of the property; or (2) towed or transported by a towing service in an arrangement made by a law enforcement officer or law enforcement agency with the towing service. Requires the attorney general to adopt rules concerning rates and charges allowed to be charged by a towing service for the cost of the services related to the removal, storage, and disposal of a vehicle, and requires a towing service to post the allowable charges on its premises. Sets certain requirements for notification by a towing service to an owner or lienholder of a vehicle concerning the towing or storage of the vehicle. Provides that a person who has been charged more than the allowable charges in connection with the removal, storage, or disposal of an abandoned vehicle may bring an action for recovery of the excess charges. Requires a vehicle or parts to be released if a properly identified person who owns or holds a lien on a vehicle pays the amount that would be owed against the vehicle or parts under the rates and charges for services established by the attorney general.

Effective: Upon passage; July 1, 2008.

Paul

January 8, 2008, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.
January 14, 2008, amended, reported favorably — Do Pass.

SB 198—LS 6744/DI 96+



C
o
p
y

January 15, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 198

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-2-12 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 12. The attorney general shall establish a schedule of**
4 **uniform rates and charges allowed to be charged by a towing**
5 **service for the cost of the services related to the removal, storage,**
6 **and disposal of an abandoned vehicle as required under**
7 **IC 9-22-1-4.5.**

8 SECTION 2. IC 9-13-2-1 IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** "Abandoned vehicle" means
10 the following:

- 11 (1) A vehicle located on public property illegally.
12 (2) A vehicle left on public property without being moved for
13 three (3) days.
14 (3) A vehicle located on public property in such a manner as to
15 constitute a hazard or obstruction to the movement of pedestrian
16 or vehicular traffic on a public right-of-way.
17 (4) A vehicle that has remained on private property without the

SB 198—LS 6744/DI 96+



C
o
p
y

consent of the owner or person in control of that property for more than forty-eight (48) hours.

(5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal.

(7) A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days.

(b) The term includes a vehicle that is:

(1) ordered to be towed or transported:

(A) from a highway, a street, or an adjacent area of a highway or street by a law enforcement officer; or

(B) from private property by the owner, lessee, or manager of the property; or

(2) towed or transported by a towing service in an arrangement made by a law enforcement officer or law enforcement agency with the towing service.

SECTION 3. IC 9-22-1-4, AS AMENDED BY P.L.191-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Except as provided in subsection (c), the person who owns an abandoned vehicle or parts is:

(1) responsible for the abandonment; and

(2) liable for all of the costs incidental to the removal, storage, and disposal;

of the vehicle or the parts under this chapter. **Section 33(c) of this chapter applies to costs of the services related to the removal, storage, and disposal of an abandoned vehicle.**

(b) The costs for storage of an abandoned vehicle may not exceed one thousand five hundred dollars (\$1,500).

(c) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, the person who previously owned the vehicle is not responsible for storage fees.

(d) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, and proceeds from the sale of the vehicle covered the removal, towing, and storage expenses, any remaining proceeds from the sale of the vehicle shall be returned to the previous

C
o
p
y



owner of the vehicle if the previous owner is known.

SECTION 4. IC 9-22-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.5. (a) The attorney general shall establish, by rules adopted under IC 4-22-2 and subject to section 4(b) of this chapter, a schedule of uniform rates and charges allowed to be charged by a towing service for the cost of the services related to the removal, storage, and disposal of an abandoned vehicle.**

(b) The rules adopted under this section must provide that storage costs for an abandoned vehicle may not exceed twenty-five dollars (\$25) per day.

SECTION 5. IC 9-22-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.** If the properly identified person who owns or holds a lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays:

- (1) all costs incurred against the vehicle or parts at that time; or
- (2) the amount that would be owed against the vehicle or parts under the rates and charges for services established under section 4.5(a) of this chapter;**

the vehicle or parts shall be released.

SECTION 6. IC 9-22-1-19, AS AMENDED BY P.L.191-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. (a)** Within seventy-two (72) hours after removal of a vehicle to a storage yard or towing service under section 5, 13, 14, or 16 of this chapter, the public agency or towing service shall do the following:

- (1) Prepare and forward to the bureau a report containing a description of the vehicle, including the following information concerning the vehicle:
 - (A) The make.
 - (B) The model.
 - (C) The identification number.
 - (D) The number of the license plate.

- (2) Conduct a search of national data bases, including a data base of vehicle identification numbers, to attempt to obtain the name and address of the person who owns or holds a lien on the vehicle.

(b) Notwithstanding section 4 of this chapter, if the public agency or towing service fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (a), the public agency or towing service:

- (1) may not initially collect more in reimbursement for the costs

C
o
p
y



of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and

(2) subject to subsection (c), may collect further reimbursement under this chapter ~~only~~ for additional storage costs **and any subsequent towing costs** incurred **only** after notifying the bureau of the removal of the abandoned vehicle.

(c) If the public agency or towing service obtains the name and address of the person who owns or holds a lien on a vehicle under subsection (a)(2), within seventy-two (72) hours after obtaining the name and address, the public agency or towing service shall, by certified mail, notify the person who owns or holds a lien on the vehicle of the:

- (1) name;
- (2) address; and
- (3) telephone number;

of the public agency or towing service. Notwithstanding section 4 of this chapter and subsection (b)(2), a public agency or towing service that fails to notify a person who owns or holds a lien on the vehicle as set forth in this subsection may not collect additional storage costs **and charges for a subsequent tow** incurred after the date of receipt of the name and address obtained under subsection (a)(2).

(d) A towing service may not collect reimbursement under both subsections (b) and (c) for storage costs **and charges for a subsequent tow** incurred during a particular period for one (1) vehicle.

SECTION 7. IC 9-22-1-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 33. (a) This section does not apply to a city, town, or county that:**

- (1) operates a towing service as a part of the authority granted to it under IC 36-1-3-2; or**
- (2) has entered into a towing contract under section 31(3) of this chapter.**

(b) A towing service must post, in a place in the premises of the towing service that is visible to the public, a schedule of the charges allowable under rules adopted under section 4.5(a) of this chapter.

(c) A towing service may not charge more than the rates and charges for services as allowed by rules adopted under section 4.5(a) of this chapter concerning the removal of an abandoned vehicle to a storage yard or towing service under section 5, 13, 14, or 16 of this chapter.

(d) A towing service is subject to section 19 of this chapter after having removed an abandoned vehicle to a storage yard or towing

C
o
p
y



1 service under section 5, 13, 14, or 16 of this chapter.

2 (e) A person who violates subsection (b) commits a Class C
3 infraction.

4 (f) A person that has been charged more in connection with the
5 removal, storage, or disposal of an abandoned vehicle than is
6 allowed under the rates established by the rules adopted under
7 section 4.5 of this chapter may file an action in a court in the
8 county in which:

9 (1) the transaction occurred; or

10 (2) the owner or lienholder of the abandoned vehicle resides
11 or has a business presence;

12 to recover the excess charges. The court in such an action shall, in
13 addition to any judgment awarded to the plaintiff, allow recovery
14 of reasonable attorney's fees and costs of the action.

15 SECTION 8. [EFFECTIVE UPON PASSAGE] (a)
16 Notwithstanding IC 9-22-1-4.5, as added by this act, the attorney
17 general shall establish a schedule of uniform rates and charges
18 allowed to be charged by a towing service in connection with the
19 removal, storage, and disposal of an abandoned vehicle under
20 interim written guidelines approved by the attorney general.

21 (b) The interim written guidelines establishing a schedule of
22 uniform rates and charges under subsection (a) expire on the
23 earlier of the following:

24 (1) The date rules are adopted under IC 9-22-1-4.5, as added
25 by this act.

26 (2) December 31, 2009.

27 SECTION 9. An emergency is declared for this act.

C
o
p
y



COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 198, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-6-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12. The attorney general shall establish a schedule of uniform rates and charges allowed to be charged by a towing service for the cost of the services related to the removal, storage, and disposal of an abandoned vehicle as required under IC 9-22-1-4.5.**

SECTION 2. IC 9-13-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** "Abandoned vehicle" means the following:

- (1) A vehicle located on public property illegally.
- (2) A vehicle left on public property without being moved for three (3) days.
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.
- (4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.
- (5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.
- (6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal.
- (7) A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days.

(b) The term includes a vehicle that is:

(1) ordered to be towed or transported:

(A) from a highway, a street, or an adjacent area of a

C
o
p
y



highway or street by a law enforcement officer; or
 (B) from private property by the owner, lessee, or manager
 of the property; or

(2) towed or transported by a towing service in an
 arrangement made by a law enforcement officer or law
 enforcement agency with the towing service."

Page 2, line 6, delete "bureau" and insert "attorney general".

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 4. IC 9-22-1-8 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. If the properly
 identified person who owns or holds a lien on a vehicle appears at the
 site of storage before disposal of the vehicle or parts and pays:

(1) all costs incurred against the vehicle or parts at that time; or

(2) the amount that would be owed against the vehicle or parts
 under the rates and charges for services established under
 section 4.5(a) of this chapter;

the vehicle or parts shall be released."

Page 4, line 9, delete "bureau of".

Page 4, line 10, delete "motor vehicles" and insert "attorney
 general".

Page 4, line 13, delete "commissioner of" and insert "attorney
 general".

Page 4, delete line 14.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 198 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 7, Nays 0.

C
o
p
y

